

**TEXAN 2000 SALES  
AGREEMENT  
BETWEEN  
THE STATE OF TEXAS, GENERAL SERVICES COMMISSION  
AND  
MANAGEMENT APPLICATIONS INC.  
GSC Contract No. TEXAN 2000 –MAI - EPI**

This TEXAN 2000 Sales Agreement (the "Agreement") is made and entered into by and between the The State of Texas, General Services Commission, a state agency whose address is 1711 San Jacinto, Austin, Texas 78701 (the "GSC") and Management Applications, Inc. ("Contractor"), a Delaware corporation, with offices at 14225 Sullyfield Circle, Suite F Chantilly, VA 20151.

The GSC is authorized to enter this Agreement pursuant to the Chapter 2170 of Title 10, Subtitle D of the Texas Government Code. In consideration of the mutual covenants and agreements, herein contained, the parties hereto agree to the following:

**ARTICLE I.  
CONTRACT DOCUMENTS**

This Agreement and the documents, listed below, together constitute the Contract and shall be referred to as the Contract Documents. The referenced documents are as follows:

- 1) Request for Offer Number 99-TELE-2000 including all addenda (the "RFO"),  
Exhibit A hereto;
- 2) Contractor's Response to the RFO, Exhibit B hereto;

- 3) The Best and Final Offer (BAFO) for 99-TELE-2000, Exhibit C hereto;
- 4) Contractor Response to BAFO, Exhibit D hereto;
- 5) Contractor's post-BAFO submissions, Exhibit E hereto;
- 6) Clarification Document and its attachments, Exhibit F hereto; and
- 7) HUB Participation Information, Exhibit G hereto.

This Agreement shall be construed wherever possible to avoid conflict between and among the Articles hereof and the Exhibits hereto. Where a conflict cannot be avoided, the following descending order of precedence shall be observed in determining which of the Contract Documents contains the controlling provision:

- 1) This Agreement;
- 2) Exhibit G;
- 3) Exhibit F;
- 4) Exhibit E;
- 5) Exhibit D;
- 6) Exhibit C;
- 7) Exhibit B; and
- 8) Exhibit A.

Exhibits A – E and G are on file in the Central Procurement Division of GSC. Exhibit F is an attachment to this Agreement.

## **ARTICLE II.**

### **DEFINITIONS**

A. "Qualified Ordering Entities" or "QOE" means the GSC, other Texas State agencies and qualified political subdivisions of the State of Texas, as specified in the Exhibit F (Clarification Document). The parties to this Agreement reserve the right to amend this definition to facilitate use by other states and their agencies, consistent with Texas SB 1127, Acts of the 76<sup>th</sup> Legislature, effective June 18, 1999.

B. "Purchase Order" means the document issued by a QOE which specifies the quantity of goods and/or services to be provided by Contractor and as agreed to by Contractor under this Agreement (collectively, "Goods and Services"), as more particularly described in Exhibit F (Clarification Document). The terms and conditions of a Purchase Order governs the sales transaction between that QOE and the Contractor only as to the type, number, price and delivery and installation terms for the Goods and Services. To the extent the Purchase Order has other preprinted provisions, which are inconsistent with the Contract Documents, the Contract Documents prevail.

C. "Clarification Document" means the document created by Contractor and approved by GSC, which is consistent with Contractor's Response to the 99-TELE-2000 RFO, the BAFO and post-BAFO submissions, and which sets out clearly and concisely the scope of Goods and Services to be provided under this Agreement. The Clarification Document is Exhibit F to this Agreement.

D. "Affiliate" means an entity, which controls or is under the control of Contractor, through ownership or by contract.

E. "User" means the individual officers, employees, contractors and agents of a QOE who are authorized by the QOE to use the Goods and Services available under this agreement.

### **ARTICLE III.**

#### **GLOBAL SALES AGREEMENT**

A. During the term of this Agreement, Contractor agrees to accept Purchase Orders from QOEs for any of the Goods and Services specified in Exhibit F (Clarification Document), so long as the GSC Contract number and Contractor's contract number, if any, appears on the Purchase Order. Contractor agrees to fulfill the Purchase Orders consistent with the delivery and/or installation instructions issued by the QOE and to perform in accordance with the covenants and warranties that apply.

B. This Agreement guarantees no minimum quantity of orders for Goods and Services to Contractor. Contractor may not establish any limits on use of this Agreement by QOEs without the prior written consent of ~~GSC~~ *DIL*

C. Contractor shall report no less than quarterly on all Goods and Services ordered under this Agreement, including in such reports the identity of the QOE per order, the date of order, quantity of each type of Goods and Services ordered, price, usage and other data as may be agreed between GSC and the Contractor. Contractor agrees to coordinate with GSC on the format of such reports and to work diligently to agree on such format within 60 days of the effective date of this Agreement.

#### **ARTICLE IV.**

##### **TERM**

This Agreement shall be in effect upon the date of the last party to sign and will continue for a period of five (5) years. GSC reserves the option to extend this Agreement for five (5) additional one-year periods, not to exceed a total contract term of ten (10) years.

#### **ARTICLE V.**

##### **GOODS AND SERVICES**

Contractor will provide the Goods and Services more particularly described in Exhibit F (Clarification Document). Contractor will furnish the Goods and Services to GSC and/or QOEs under the terms and conditions of this Agreement.

#### **ARTICLE VI.**

##### **SOFTWARE LICENSE**

Contractor warrants that the manufacturer of the software used to maintain and operate the Equipment shall grant to the QOEs a nonexclusive, nontransferable license for the life of the Equipment to use the software, including related documentation, solely to maintain and operate the Equipment, provided the QOEs: (i) to the extent permitted by

the Texas Public Information Act, does not allow any aspect of the software to be disclosed to a third party without the software manufacturer's written consent and makes reasonable efforts to ensure that its employees are aware of this obligation; (ii) uses the software solely for QOE internal business; (iii) does not modify, reproduce or copy any part of the software without the software manufacturer's written consent and does not attempt to develop any source code from the software; and (iv) returns to software manufacturer or erases or destroys any software on any media being recycled or discarded, due to replacement or termination of license. If applicable, the QOEs may only transfer the right to use the software to any end user who subsequently acquires the right to operate the Equipment.

QOEs acknowledge that the software and features provided by Contractor constitute either the copyrighted property or the proprietary trade secret information of the software manufacturer, or both. The QOE shall use reasonable precautions to prevent unauthorized use of the software and features or disclosure of the software manufacturer's proprietary trade secret information. The QOEs acknowledge that the software manufacturer retains title to the software (excluding media on which recorded) and all intellectual property rights, with the exception of the license conveyed herein and no title to software or intellectual property rights are transferred to the QOEs.

## **ARTICLE VII.**

### **WARRANTIES**

#### **A. From Contractor:**

**1. In General.** Warranties shall apply to all ordered goods and shall be for the period stated in the Clarification Documents.

**2. Year 2000 Warranty.** For purposes of this warranty, the following definitions shall apply:

1) "Accurately" shall be defined to include:

- a) calculations correctly performed using four digit year processing;
  - b) functionality on-line, batch, including but not limited to, entry, inquiry, maintenance and updates support four digit year processing;
  - c) interfaces and reports must support four digit year processing;
  - d) successful translation into year 2000 with valid date (e.g., CC/YY/MM/DD) without human intervention. Additional representations for week, hour, minute and second, if required, complies with the international standard ISO 8601:1988, "Data elements and interchange formats - Information exchange - Representation of dates and times." When ordinal dates are used, the ISO standard format of CCYYDDD is used;
  - e) processing with a four digit year after transition to any date beyond the year 2000 without human intervention;
  - f) correct results in forward and backward date calculations spanning century boundaries;
  - g) correct leap year calculations; and
  - h) correct forward and backward date calculations spanning century boundaries, including conversion of previous years stored, recorded or entered as two digits.
- 2) "Date integrity" shall mean all manipulations of time-related data (dates, durations, days of week, etc.) will produce desired results for all valid date values within the application domain.
  - 3) "Explicit century" shall mean date elements in interfaces and data storage permit specifying century to eliminate date ambiguity.
  - 4) "Extraordinary actions" shall be defined to mean any action outside the normal documented processing steps identified in the product's reference documentation.

- 5) "General integrity" shall mean no value for current date will cause interruptions in desired operation - especially from 20th to 21st centuries.
- 6) "Implicit century" shall mean for any date element represented without century, the correct century is unambiguous for all manipulations involving that element.
- 7) "Product" or "products" shall be defined to include, but is not limited to, any supplied or supported hardware, software, firmware and/ or micro code.
- 8) "Valid date" shall be defined as a date containing a four digit year, a two digit month and a two digit day, or the ISO 8601:1988, Data elements - Information exchange - Representation of dates and times". When ordinal dates are used, ISO standard format of CCYYDDD is used.

Contractor warrants that product(s) delivered and installed under this Agreement shall be able to accurately process valid date data when used in accordance with the product documentation provided by the contractor and require no extraordinary actions on the part of the QOEs or its personnel. Products supplied under this Agreement possess general integrity, date integrity, explicit and implicit century capabilities. If the Agreement requires that specific products must perform as a system in accordance with the foregoing warranty, then the warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the QOEs for breach of this warranty shall be as defined in, and subject to, the terms and conditions of the Contractor's standard commercial warranty or warranties contained in this Agreement; provided, that notwithstanding any provision to the contrary in such commercial warranty or warranties, the remedies available to the QOEs under this warranty shall include repair or replacement of any supplied product whose non-compliance is discovered and made known to the Contractor in writing within ninety (90) days after final acceptance, as that term is defined elsewhere in the Agreement. Nothing in this warranty shall be construed to limit any rights or remedies the QOEs

may otherwise have under this Agreement with respect to defects other than Year 2000 performance.

The above warranty is in lieu of all other express warranties. This Agreement excludes all implied warranties, including but not limited to, the warranties of merchantability and fitness for a particular purpose. Contractor disclaims any warranty to prevent unauthorized use of the Equipment including toll fraud.

QOE's will be subrogated to any claims or rights Contractor may have against the manufacturer of the Equipment for breach of any warranties or representations and, upon QOE's written request, Contractor will take all reasonable actions to enforce on QOE's behalf any such express or implied warranties or representations applicable to the Equipment subject to the approval of the Office of the Attorney General of Texas which will not unreasonably be withheld.

**B. From QOE's:**

1. In ordering Goods and Services under this Agreement, the QOE's assure GSC and Contractor that its and its Users' use of the Goods and Services will at all times comply with applicable laws, regulations and written and electronic instructions for use. Contractor reserves the right to terminate Goods and Services for cause in the event QOE's or the related Users fail to comply with applicable laws, regulations and instructions for use.

2. Goods and Services ordered under this Agreement shall only be used for official business of the QOE. Each QOE is responsible for the lawful use of Goods and Services obtained under this Agreement.

**ARTICLE VIII.**

**LIMITATION OF LIABILITY AND INDEMNIFICATION**

Applicable limitations of liability and indemnification provisions, which may apply to Goods and Services, are as set out in Exhibit F (Clarification Document).



## **ARTICLE IX.**

### **REMEDIES**

**A. Termination for Cause.** If any party at any time commits any material breach of any covenant, warranty, or provision of this Agreement or a Purchase Order arising hereunder and, having been given the opportunity to correct, fails to cure any such breach within thirty (30) days after written notice thereof, the other party may, at its option, and in addition to any other remedies available to it at law or equity, cancel and terminate the Purchase Order by notice in writing to the breaching party. Only GSC and the Contractor may terminate the Agreement for cause, effective thirty (30) business days after receipt of written notice. Where the breach is related to nonpayment by a QOE, Contractor will use reasonable efforts to advise GSC and the Contractor will cooperate with GSC and the QOE in an attempt to resolve any bona fide dispute that is the basis of the non-payment.

**B. Termination for Convenience.** QOEs may terminate a Purchase Order arising under this Agreement upon seven (7) business days written notice to Contractor. QOEs shall remain responsible and liable for payment for Goods and Services received prior to the effective date of termination. The covenant of payment for Goods and Services received survives termination of this Agreement and/or a related purchase order. Only GSC and Contractor may terminate the Agreement for convenience, effective seven (7) business days after receipt of written notice.

## **ARTICLE X.**

### **NOTICES**

Except as otherwise specifically provided in Exhibit F (Clarification Document) for telephonic notices, all notices required to be given under this Agreement shall be in writing and either mailed by certified or registered mail, postage prepaid return receipt requested, sent by express courier, facsimile transmission or electronic means, with hard copy receipt, or hand delivered and addressed to each party at the address set

forth on the front of this Agreement or, if the notice relates to a specific Purchase Order, the address set forth in such Purchase Order, or, in any case, such other address a party designates in writing.

## **ARTICLE XI.**

### **HISTORICALLY UNDERUTILIZED BUSINESS PARTICIPATION**

Pursuant to Chapter 2161 of the Texas Government Code, the state agency QOE's are required to make a good faith effort to assist Historically Underutilized Businesses ("HUBs") in receiving a portion of the total value of all contract awards issued by the QOE's. Therefore, Contractor shall be required to make a good faith effort to assist HUBs in receiving a portion of the total value of subcontracts that Contractor awards under this Agreement. To make such a good faith effort, Contractor at a minimum must as a condition of award and before execution of this sales agreement submit Good Faith Effort Program forms and documentation and report subcontracting participation after contract execution. Failure to submit HUB subcontracting data will result in revocation of any contract awarded because of noncompliance. Existing contracts that the Contractor may have for commodities or services will not preclude efforts on the Contractor's part to include HUBs in sub-contracting opportunities. Should any subcontracting occur, the Contractor shall be held responsible for any work performed by the subcontractor and that the subcontractor comply with all parts of this specification including all insurance requirements. The HUB subcontracting participation forms are attached hereto as part of Exhibit G (HUB Participation Information).

## **ARTICLE XII.**

### **PAYMENT**

A. Unless payment terms are stated differently in a Purchase Order, payment for Goods and Services are due by the thirtieth (30<sup>th</sup>) day after:

- 1) the date of completed work under the related purchase order;

- 2) the date of acceptance of ordered goods under the related purchase order; or
- 3) the date of receipt of a correct and complete invoice, whichever is later.

**B.** Penalties for late payment are as set out in Chapter 2251, Texas Government Code, as the same may be affected by Section 55.010, Texas Utilities Code.

**C.** The QOEs are not subject to the assessment or payment of federal, state and local sales and excise taxes. As tax exempt entities, the QOEs are also exempt from the assessment and payment of the Texas Infrastructure Fund charge and the Texas Universal Service Fund charge, which are assessed based on "taxable" receipts. At no time during the term of this Agreement may Contractor assess QOEs for any sales or excise taxes or any telecommunication service charges, known or hereafter enacted, that are based on "taxable" receipts of telecommunications providers. Similarly, GSC and state agencies are specifically exempt by statute from the payment of the 911 Emergency Service Fee, the 911 Equalization Surcharge (on intrastate long distance) and Poison Control Surcharge. At no time during the term of this Agreement may Contractor assess GSC or any state agency for any fee, charge, surcharge or assessment, known or hereafter enacted, for which a statutory exemption has been provided for the state. GSC and all state agencies are exempt from assessment and payment of the Federal Universal Service Fund Charge as an unconstitutional assessment under the Texas Constitution. At no time during the term of this Agreement may Contractor assess against GSC and any other state agencies any fee, charge, surcharge or assessment, known or hereafter enacted, the payment of which would violate the Texas Constitution. Any disputes arising over the question of the state's liability to pay any fee, charge, surcharge or assessment for telecommunications services shall be finally determined by the Office of the Attorney General of Texas. Contractor agrees to conform its billing practices to the determinations made by the Office of the Attorney General of Texas.

D. Invoices must contain, at a minimum: this Contract number; the number of the Purchase Order to which the invoice relates; description of the Goods and Services provided pursuant to the Purchase Order; V.I.D, other vendor identification information as specified in the Purchase Order.

### **ARTICLE XIII.**

#### **MISCELLANEOUS**

**A. Vendor Performance.** QOE's shall report to GSC any instances of vendor non-performance under this Agreement, pursuant to 1 TAC Chapter 113, Subchapter F.

**B. Entireties.** This Agreement supersedes any and all prior agreements, representations, or promises made by the parties that differ in any way from the terms and conditions stated herein.

**C. Strict Performance.** Failure at any time to require strict performance by either party of any Agreement provisions shall not waive or diminish GSC's right thereafter to demand strict compliance with any other Agreement provision.

**D. Amendments, Modifications or Changes.** No amendments, modifications or changes to this Agreement shall be made except by a writing signed by the Contractor and GSC.

**E. Assignment.** Neither party shall assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the other, except for assignments to affiliates and successors, for which no consent is required. Said consent shall not be unreasonably withheld.

**F. Force Majeure.** Neither Contractor nor a QOE shall be liable for any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes, acts of civil or military authority, wars, acts of God, acts or omissions of carriers or suppliers, which are not acting as affiliates under this Agreement, acts of regulatory or governmental agencies, or other

causes beyond such party's reasonable control, whether or not similar to the foregoing, except that a QOE's obligation to pay for Service received shall not be excused.

**G. Legislative Appropriation.** This Agreement is subject to legislative appropriation and, if no funds are appropriated for payment of this Agreement, this Agreement may be canceled either in whole or part, without penalty to the GSC with thirty (30) days written notice to Contractor.

**H. Severability.** If any provision(s) of this Agreement shall be invalid or unenforceable, such provisions shall not invalidate or render unenforceable the entire Agreement. The entire Agreement shall be construed as if the invalid or unenforceable provision(s) were not included in the Agreement.

**I. Subcontracting.** During the term of this Agreement, contractor shall not subcontract any additional services to be provided pursuant to this Agreement without obtaining approval from GSC. In no event will any subcontracting by Contractor relieve Contractor from any of the obligations to perform in accordance with this Agreement.

**J. Governing Law.** This Agreement will be construed and all disputes hereunder will be settled under the laws of the State of Texas.

**K. Sovereign Immunity.** Nothing herein shall constitute waiver by the State of Texas of its sovereign immunity. Nothing herein shall be construed to extend sovereign immunity status to other QOEs, which do not otherwise enjoy that privilege as a matter of law. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by GSC and state agency QOEs and Contractor to attempt to resolve all disputes arising under this Agreement, and each Purchase Order issued pursuant hereto.

**L. Compliance with Laws.** This Agreement shall be subject to all applicable laws, court orders, rules and regulations.

**M. Binding Effect.** The execution of this Agreement by the authorized representatives of the parties shall have binding effect on the entity, its employees, agents, successors and assigns.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed to be effective on the date of the last party to sign.

**GENERAL SERVICES COMMISSION**

BY: Cal Muller

TITLE: Acting Ex. Director

DATE: 10/4/99

**MANAGEMENT APPLICATIONS INC.**

BY: Jay A. Bushman

Jay Bushman

TITLE: President

DATE: 9/27/99

APPROVED AS TO FORM:

Cynthia Hill  
Office of General Counsel

10/4/99

HC Chung  
Fiscal Management

10/4/99

*Final*

**EXHIBIT F**

**MANAGEMENT APPLICATIONS, INC.**

**TEX-AN 2000 CLARIFICATION DOCUMENT  
EQUIPMENT PURCHASE AND INSTALLATION**

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## **1.0 EQUIPMENT PURCHASE**

### **1.1 Scope of Goods and Services**

MAI is uniquely qualified to provide equipment and services for wide area data networking products that may be procured by GSC's Qualified Ordering Entities (QOE) for connecting to or utilizing the services of the TEX-AN 2000 Network.

MAI has developed close relationships with leading technology providers to ensure customers receive the highest level of expertise and service. MAI has built strong strategic relationships with leading equipment manufacturers such as Cabletron Systems, FORE Systems, and Visual Networks. MAI is pleased to offer the complete product line and services from these "best of breed" manufacturers to GSC's QOEs.

### **1.2 Description**

In addition to hardware such as CSU/DSUs, routers, multiplexers, access devices, etc., MAI also offers software, installation, maintenance and training. Complete product lists and pricing may can be found at MAI's GSC website.

### **1.3 Availability to QOEs**

MAI's standard lead time for equipment purchases is 30 days. MAI will deliver ordered goods to the QOE in accordance with the related purchase order. All shipping shall be F.O.B. destination, freight prepaid and allowed. MAI understands that additional delivery instructions may appear in related purchase orders.

### **1.4 Cabletron Systems**

Cabletron Systems provides high-performance networking solutions and delivers dependable network access and communications through scalable products designed for enterprise networks and service providers. MAI has been a Cabletron Synergy Plus Partner since 1996.

#### **1.4.1 Warranty**

Cabletron provides a standard 90-day warranty on all products with the exception of all DNI cards and most transceivers, which carry a one-year warranty. Standard warranty begins when the product is shipped from a Cabletron warehouse.

Under the warranty program, Cabletron extends the following services:

- Complete telephone support during normal business hours of 8 A.M. to 8 P.M. (EST), Monday through Friday.
- Cabletron will repair all products at no charge when returned to the Cabletron factory depot. If a product cannot be repaired, it will be replaced at no charge.
- Cabletron will cover freight charges to return the product or its replacement to the customer.

### **1.4.2 Maintenance and Repair Specs**

MAI recognizes that service and support are an integral component of a mission critical network. In addition to the standard 90-day manufacturer warranty, MAI provides the following services in support of its customers:

- Complete phone support via MAI's toll-free technical support number.
- MAI technicians are available to answer any questions QOE's may have about troubleshooting, configurations, pre- and post-sale installation, as well as issuing Return Material Authorization numbers to get equipment repaired or replaced.
- Advance hardware replacement.

#### ***LANCare Service Contracts***

Depending upon the QOE's networking needs, MAI will assist the customer in determining the best LANCare service contract to suit their needs. The following features are basic elements to the standard LANCare program:

##### ***1. 7 x 24 Technical Support***

QOE's have access to round-the-clock phone support from Cabletron's Global Support Center. The Global Support Center is Cabletron's central resource for arranging equipment repair or replacement.

##### ***2. Advance Replacements (Next Business Day Replacement Products)***

If it is determined that a product must be replaced, a product replacement will be shipped immediately to the customer location. All problem notifications received prior to 4:00 P.M. (EST) result in a best effort to ship replacements for next business day delivery. Notification after 4:00 P.M. (EST) will result in replacement shipments the following business day.

##### ***3. Firmware Upgrades***

Cabletron's Global Support Center is available to assist with compatibility or installation issues if needed.

##### ***4. LANCare On-line Account***

LANCare customers can create a personal on-line account at Cabletron's service and support website in order to gain access to information updates related to hardware, software and support. In addition, they can download software upgrades and review Cabletron's release notes and revision documents.

##### ***5. On-Site Field Engineering Response***

A Field Service Engineer may be dispatched to the customer site within the specific contract level guidelines. There is no charge for this support for LANCare Plus 7 x 24 or LANCare Plus.

Three different Cabletron LANCare programs are available, offering flexibility in the level of support and customer response time needed by the QOE. The key difference between programs is the option of on-site Field Engineering.

1. *LANCare Standard*

LANCare Standard is a cost-effective solution to deliver consistent, basic technical resources to QOEs. In addition to the features listed above, this level offers Field Engineering on-site response within the next business day.

2. *LANCare Plus Business Hour Response*

In addition to the standard features listed above, this level offers Field Engineering on-site response within 4 hours, Monday through Friday, during normal business hours.

3. *LANCare Plus 7 x 24*

The highest support level offered, LANCare Plus 7 x 24 provides a comprehensive suite of technical resources to QOEs. In addition to the standard features listed above, this level offers Field Engineering on-site response within 4 hours, 7 days per week, 24 hours per day.

The following table shows Cabletron's support service offerings. Each item is accompanied by a description of what the offering provides to the customer.

|                                       | HARDWARE  |  |   |                   | SPECTRUM        |
|---------------------------------------|---|--|---|-------------------|-----------------|
| Features                              | LANCare Standard  | LANCare Plus Business Hrs.                       | LANCare Plus 7 x 24                         | Parts Express**   | Protection Plan |
| Term                                  | Annual  | Annual   | Annual                                      | Annual            | Annual          |
| Global Support Center                 | 7 x24   | 7 x24  | 7 x24                                       | 7 x24             | 7 x24           |
| Number to Call                        | A toll free number assigned for LANCare customers only. |  |   |                   |                 |
| Replacements                          | Advance Replacement Next Day Turnaround                 | Advance Replacement Next Day Turnaround          | Advance Replacement Next Day Turnaround     | Same Day Delivery | N/A             |
| Firmware/Software Upgrades            | No Charge   | No Charge  | No Charge                                   | No Charge         | No Charge       |
| On-Site Field Engineer Response Times | Next Business Day                                       | Within 4 hours, (Mon-Fri, normal business hours) | Within 4 hours, (7 days/week, 24 hours/day) |                   | Next Available  |
| On-line Account                       | Yes   | Yes  | Yes   | Yes               | Yes             |

**\*\*Parts Express can either be purchased as a standalone program, or as an enhancement to a LANCare support plan, thereby shortening a replacement product's delivery time.**

### **1.4.3 Price/Units**

MAI will provide QOEs with discounted pricing of 36% off Cabletron's List Price for all Cabletron hardware, 20% off Cabletron's List Price for all Cabletron software and 8% off Cabletron's List Price for all maintenance. For current pricing on all products, please see MAI's product list and pricing at MAI's GSC website.

### **1.4.4 Liability**

The obligations and liabilities of Cabletron and its affiliates as set forth herein are exclusive and expressly in lieu of all other liabilities, obligations or remedies, express or implied, including any obligation, liability, right, claim, or remedy in contract or tort, whether or not arising from negligence of Cabletron, actual or imputed. No warranties (either express or implied), representations, promises or statements have been made by Cabletron or its affiliates unless contained in this agreement. No warranty, express or implied, is made herein that the hardware or software is merchantable, or fit or suitable for the particular purposes for which they may be required by customer.

In no event shall Cabletron or its affiliates be liable for any indirect, incidental, or consequential damages including, without limitation, damages arising from loss of data, loss of profits or revenue, loss of use of equipment, or other down time costs, whether claimed by reason of breach of warranty or otherwise.

Notwithstanding anything contained herein to the contrary, the total liability of Cabletron and its affiliates under this agreement is limited to, at Cabletron's option, Cabletron's use of reasonable efforts to repair or replace the affected product(s) or the refund of a maximum of one year's support services fee for affected product(s).

## **1.5 FORE Systems**

FORE Systems offers a wide range of edge solutions to support existing and emerging voice, video and digital WAN communications. This comprehensive product line is built on a foundation of the highest performance, most functional ATM switches in the industry today.

### **1.5.1 Warranty**

#### **Standard Warranty**

FORE Systems warrants that each FORE hardware product will be free from material defects for a period of one (1) year from the date of shipment. For purpose of this warranty, "material defect" shall mean any defect in a FORE hardware product that can be reproduced by FORE and is a substantial nonconformity from the published specifications for such FORE hardware product. The QOE's sole remedy and FORE's sole responsibility under this warranty shall be repair or replacement of the FORE hardware product as described below.

The warranty applies for the most current versions of the FORE hardware product. FORE has no obligation to provide warranty services if the defect in the FORE hardware product is caused by accident, operator error, malfunction of non-FORE hardware or software, modification of the FORE hardware product or use of the FORE hardware product that is not in accordance with the operating instructions for the FORE hardware product.

### Standard Hardware Warranty

FORE's hardware carries a one-year warranty. The hardware warranty period begins on the date of the original shipment from FORE to the QOE. Any product received by a FORE customer and found to be defective during the warranty period will be repaired or replaced by FORE with a guaranteed ten (10) business days (in factory) return policy.

QOEs who require warranty service should follow these procedures:

1. Call FORE Technical Support at (724) 742-6999 to obtain a Return Material Authorization (RMA) number.
2. Prepay shipping to:  
FORE Systems, Inc.  
Warranty Repair Services  
174 Thorn Hill Road  
Warrendale, PA 15086
3. The returned product should be shipped back to FORE in its original packing material. The applicable RMA number must be placed on the address label. If no RMA number is on the address label, the receipt of the product may be refused by FORE.
4. Call FORE at (724) 742-6999 to confirm receipt.
5. FORE will repair or replace the failed system within ten (10) business days of receipt and will prepay return via ground freight. At the QOE's request and expense, it may be shipped via overnight carrier. If overnight shipping is requested, the QOE is required to provide the appropriate shipping information and account number or receive via collect freight where applicable.
6. If a part is not repairable, but is under warranty, a factory-reconditioned part may be issued. The balance of the original warranty will be transferred to the factory-reconditioned part.

FORE is under no obligation to provide warranty services if the defect in the FORE hardware product is caused by accident, operator error, malfunction of non-FORE hardware or software, modification of the FORE hardware product, or use of the FORE hardware product that is not in accordance with the operating instructions for the FORE hardware product.

### Standard Software Warranty

FORE software carries a 90-day warranty, during which QOEs will receive remedial software releases and patches to base software. Also, during the warranty period, software deficiencies reported to and verified by FORE, if possible, will be corrected and distributed to QOEs under warranty. QOEs under standard warranty will receive an acknowledgment within one (1) business day. QOEs will have access to the Technical Assistance Center for the purpose of reporting a potential bug in FORE software. The warranty period begins from the date of the original shipment from FORE to the QOE. The following steps outline FORE's software warranty service:

1. The QOE should contact FORE's Technical Support at (724) 742-6999 between the hours of 8 A.M. to 5 P.M. EST Monday through Friday. QOEs not under a *ForeMan* support program are required to supply the serial number of the device under warranty at this time.
2. Technical Support will evaluate the problem and advise the QOE of any corrective action.
3. If revised operating software is required, the latest system documentation and software will be made available via anonymous ftp. QOEs desiring hardcopy documentation and media may purchase it at their expense.
4. The QOE must provide remote system access (e.g., Internet access or a modem connected to the failed device) when requested by Technical Support.
5. FORE reserves the right not to correct problems related to what it deems as nonstandard or unsuitable applications.
6. Software problems reported after the warranty expires and not covered by a *ForeMan* Support Contract may be addressed at FORE's discretion.

#### **1.5.2 Maintenance and Repair**

*ForeMan* Technical Support is a comprehensive support program providing hardware and software support through a variety of delivery mechanisms. *ForeMan* is a customizable set of programs and offerings that allow QOEs to tailor their support solution to their business requirements.

First, MAI will assist the QOE in choosing the level of systems support they need. The QOE will then choose individual hardware maintenance programs for different parts of their network. This flexibility is unique and allows the QOE to define a program that works for their network in the most cost-effective way.

From basic warranty support through on-site programs, FORE has support offerings and the technical expertise to give the QOE what they want—when they want it.

#### **1.5.3 Price/Units**

MAI will provide QOEs with discounted pricing of 30% off FORE's List Price for all FORE hardware, 30% off FORE's List Price for all FORE software and 30% off FORE's List Price for all maintenance. For current pricing on all products, please see MAI's product list and pricing at MAI's GSC website.

#### **1.5.4 Liability**

This warranty applies for the most current versions of the FORE hardware product. FORE shall have no obligation to provide warranty services if the defect in the FORE hardware product is caused by accident, operator error, malfunction of non-FORE hardware or software, modification of the FORE hardware product or use of the FORE hardware product that is not in accordance with the operating instructions for the FORE hardware product.

### **1.6 Visual Networks**

Visual Networks designs and manufactures WAN service level management systems for technologies such as Frame Relay, IP/Internet, and ATM. Over 500 corporations worldwide are using Visual UpTime, the industry's leading WAN service level

management system. Visual UpTime combines WAN access functionality with innovative software for performance monitoring, troubleshooting and network planning. Visual UpTime provides instrumentation for network performance measurement and analysis that allows WAN service providers to achieve service levels required by subscribers and to lower operating costs associated with statistically multiplexed services. Major carriers including AT&T, Sprint, MCI Worldcom and GTE have selected Visual Network products as their standard management service offerings to their Frame Relay customers. MAI has been a Visual Networks' partner since 1995. MAI has been the Two-Step Distributor for Visual Networks since 1998.

#### **1.6.1 Warranty**

Visual Networks Inc. (Visual) warrants that the Analysis Service Elements hardware and cables which it supplies, are free from significant defects in materials and workmanship and will operate substantially in accordance with the specifications supplied by visual for such hardware for a period of five (5) years from the date of delivery (the "Warranty Period"), under normal use and conditions.

In the event that a QOE identifies a significant defect during the Warranty Period, the QOE may return the hardware product that is believed to be defective to Visual, freight prepaid, and if Visual determines that the hardware product is in fact defective, Visual will repair or replace the hardware product and return it to the QOE, freight prepaid. Visual shall have no responsibility or obligation with respect to any deficiency resulting from accidents, misuse, or modifications.

In the event that during the Warranty Period, the QOE believes that the hardware product does not operate substantially in accordance with specifications supplied by Visual, the QOE may notify Visual in writing as to the manner in which the product operation appears to be substantially inconsistent with specifications. If Visual determines that the hardware product does not operate substantially in accordance with the specifications supplied by Visual, Visual will 1) modify or replace such product so that it does operate substantially in accordance with such specifications and return it to the QOE, freight prepaid, or at Visual's election, 2) refund the amount paid by the QOE for the product which fails to so operate in accordance with such specifications upon the return of said product by the QOE to Visual.

Visual warrants that for a period 90 days after receipt, the disks on which software is received will be free from defects in material and workmanship. Visual will replace defective disks at no charge. Visual does not warrant that the software is free from bugs, errors or other program limitations.

#### **1.6.2 Maintenance and Repair**

Visual Networks anticipates making significant investments in the on-going development of its products so that they may continue to provide customers with the industry's most powerful support environment for fast-packet data networks. While there can be no guarantees on the frequency of enhancements to Visual Networks products, Visual expects to deliver, on average, two (2) new enhancement releases annually. The system has been architected to allow for remote software downloading so that minimal effort is required by the user to deploy enhanced software releases.

### ***Annual Hardware Maintenance Programs:***

There are several key aspects of the Annual Hardware Maintenance Programs:

- The Hardware Maintenance Programs must be purchased with the initial order and all renewals must be ordered prior to the expiration of the existing maintenance program.
- The Hardware Maintenance Programs are available to be purchased on an ASE by ASE basis. This is based on the serial number of the ASE, which must be registered with Visual Networks (see registration process below).
- *Hardware Maintenance Program Registration:*
  1. Each product must be registered with Visual Networks. QOEs need to communicate to Visual Networks the location, serial number, and type of maintenance (Bronze/Gold) applicable to each product, as well as contact information within their organization. This enables Visual Networks to provide an on-site ASE replacement service.
  2. Gold Hardware Maintenance offers 7 days a week, 24 hours a day, ASE replacement services with an average 4 hour on-site response from time of dispatch.
  3. Bronze Hardware Maintenance offers next business day replacement of the ASE.
  4. When exercising your maintenance contract, be sure to have the serial number available for the Visual Networks TAC representative so that he will be able to quickly verify your maintenance level, and take appropriate action to correct the problem.
- *Hardware Maintenance Program Renewals:*
  1. The QOE will be contacted 90 days prior to contract expiration to renew their Hardware Maintenance Program.
  2. Products purchased during the 12 months prior to renewal will be supported under their old maintenance contract until the expiration of that contract.
  3. Customers will purchase maintenance under the new maintenance program for any *new* ASEs that are purchased.
  4. Prior to the expiration of the maintenance term, QOEs have the option of renewing ASEs that are currently under the old program onto the new maintenance program, however, no account credits will be given for months outstanding on the old contract.

There are several key aspects of the Software Maintenance Programs:

- The Software Maintenance Program must be purchased with the initial order and all renewals must be ordered prior to the expiration of the existing maintenance program.
- The Software Maintenance Program is available on a customer-wide basis. That is, the Software Maintenance Program applies to all Visual UpTime products that a particular customer purchases (console and ASEs).



- All software upgrades are downloaded from the PAM.
- The Software Maintenance Program applies to only Visual UpTime software. Any 3rd Party software installed on Visual Networks products is not included in the Software Maintenance Program.
- *Software Maintenance Program Renewals:*
  1. The QOE will be contacted 90 days prior to contract expiration to renew their Software Maintenance.
  2. Products purchased during the 12 months prior to renewal will be supported under their old maintenance contract until the expiration of that contract.
  3. QOEs will purchase maintenance under the new maintenance program for any new consoles that are purchased.
  4. Prior to the expiration of the maintenance term, QOEs have the option of renewing consoles that are currently under the old program onto the new maintenance program, however, no account credits will be given for months outstanding on the old contract.
- Any QOE under software support will continue to receive support for the duration of their maintenance contract. This implies three years of support from the discontinuation date of that product based on the date of the contract. This includes image updates, VTAC, and bug fixes. Bug fixes will be made available on discontinued units at Visual Networks sole discretion.

### **1.6.3 Price/Units**

MAI will provide QOEs with discounted pricing of 30% off Visual Networks' List Price for all Visual Networks hardware, 30% off Visual Networks' List Price for all Visual Networks software and 10% off Visual Networks' List Price for all maintenance. For current pricing on all products, please see MAI's product list and pricing at MAI's GSC website.

### **1.6.4 Liability**

The express remedies stated in this Agreement are in lieu of all obligations or liabilities on the part of Visual Networks for damages arising from breach of warranty, breach of contract, negligence or another legal theory. In no event shall Visual Networks be liable for lost profits, data or information of any kind or for consequential, special, indirect, incidental, punitive or other damages that may arise through the sale of, use of, or inability to use any Visual Networks product or service, even if Visual Networks has been advised of the possibility of such damages. Distributor's sole and exclusive remedy for any damage or loss in any way in connection with the products, including, but not limited to, the installation and maintenance thereof, shall be at Visual Networks' option: (i) repair or replacement of the relevant product, or in the case of installation or maintenance the reperformance of the installation or maintenance, respectively, or (ii) return of the monies paid by distributor to visual networks for the relevant product or installation or maintenance. The parties hereby waive any rights which may be granted to them by sovereign entities or political subdivisions in the territory which are not granted to them by this agreement.

Visual Networks' cumulative liability for damages to Distributor resulting in any way from this Agreement and/or Distributor's sale or use of the Products will in no event exceed the amounts which Distributor is obligated to pay to Visual Networks pursuant to the terms of this Agreement and which has been paid at the time of such award of damages.

## **2.0 INSTALLATION**

### **2.1 Scope of Goods and Services**

MAI is uniquely qualified to provide installation services for multiple wide area data networking products that may be procured by GSC's Qualified Ordering Entities (QOE) for connecting to or utilizing the services of the TEX-AN 2000 Network.

MAI has developed close relationships with leading networking technology providers to ensure our customers receive the highest level of expertise and commitment, together with the benefits of our independence. While we are vendor independent, our alignment to the main product manufacturers means that we keep abreast of emerging technologies, allowing us to offer objective advice to our clients. The combination of skilled staff and vendor alignment means we are capable of designing and installing solutions that are technically innovative.

Reflecting the multi-vendor nature of networks today, our support services division has invested heavily to attain relevant vendor accreditations in network maintenance and support skills. MAI has strategic relationships with leading equipment manufacturers such as Cabletron, FORE Systems, and Visual Networks.

### **2.2 Description**

MAI has the necessary resources and experience to provide installation and maintenance services to all QOEs on a statewide basis.

MAI's installation pricing, outlined in Section 2.4, is based on installation during standard business hours (8:00 A.M. to 5:00 P.M., Monday through Friday), excluding holidays. Requests for installation at times other than standard business hours must be authorized in writing by the QOE's Project Manager when additional charges may apply.

MAI will install the ordered goods to be functional by the date designated in the related Purchase Order.

MAI will verify the successful operation of all of the ordered good's functions in accordance with the Manufacturer Equipment Description and Practices Standards Manual.

MAI, if requested, will configure and test the equipment prior to the physical deployment. MAI will coordinate the installation of the ordered goods and associated network components with QOEs to insure timely installation.

MAI will coordinate with QOEs before and during installation to minimize rescheduling or repeated trips due to missed due dates.

If necessary, MAI will provide a Project Manager to oversee the installations, to insure all timelines are met, and serve as a single point-of-contact for QOEs.

### 2.3 Availability to QOES

MAI will work with the QOE in accordance with the related purchase order to facilitate installation. MAI's installation lead time for metropolitan areas is 30 days, and for rural areas our installation lead time is 45 days. MAI has install teams located in all of the metropolitan cities in the State of Texas.

### 2.4 Price/Units

Please refer to the following table for Equipment Installation pricing.

| Equipment Installation Services  | Simple System or Component Install i.e., leaf node router, CSU/DSU, processor card, etc. (Approx. 2 hrs. Onsite) | Intermediate System or Component Install, i.e., leaf network router, CSU/DSU shelf, etc. (Approx. 4 hrs. Onsite) | Complex System or Multi-Component Install, i.e., core or distribution router, memory upgrades, etc. (Approx. 6 hrs. Onsite) |
|--|--|--|---|
| <b>Austin, Dallas, Houston or San Antonio</b>  |  |  |   |
| 0-25 Miles Radius  | \$200.00   | \$365.00   | \$530.00  |
| 26-50 Miles Radius   | \$270.00   | \$435.00   | \$600.00  |
| 51-150 Miles Radius  | \$440.00   | \$605.00   | \$770.00  |
| Over 150 Miles Radius  | \$660.00   | \$825.00   | \$990.00  |
| Pre-site Survey and Site Drawing   | \$500.00   | \$600.00   | \$750.00  |
| Re-trip Cost – Site Survey   | \$375.00   | \$400.00   | \$500.00  |
| Re-trip Cost – Installation  | \$200, \$270, \$440, \$660   | \$365, \$435, \$605, \$825   | \$530, \$600, \$770, \$990  |
| Additional hourly out-of-scope rate  | \$75.00  | \$75.00  | \$75.00   |
| Equipment Delivery or Transportation Cost to Customer Site   | Included   | Included   | Included  |
| <b>Abilene, Amarillo, Beaumont, College Station, Corpus Christi, El Paso, Lubbock, McAllen, Midland, Tyler, Waco and Wichita Falls</b> |  |  |   |
| 0-25 Miles Radius  | \$200.00   | \$365.00   | \$530.00  |
| 26-50 Miles Radius   | \$270.00   | \$435.00   | \$600.00  |
| 51-150 Miles Radius  | \$440.00   | \$605.00   | \$770.00  |
| Over 150 Miles Radius  | \$660.00   | \$825.00   | \$990.00  |
| Pre-site Survey and Site Drawing   | \$750.00   | \$900.00   | \$1,125.00  |
| Re-trip Cost – Site Survey   | \$550.00   | \$600.00   | \$750.00  |
| Re-trip Cost – Installation  | \$200, \$270, \$440, \$660   | \$365, \$435, \$605, \$825   | \$530, \$600, \$770, \$990  |
| Additional hourly out-of-scope rate  | \$75.00  | \$75.00  | \$75.00   |
| Equipment Delivery or Transportation Cost to Customer Site   | Included   | Included   | Included  |

**NOTE:** All pricing for equipment installation includes travel costs.

## **2.5 Insurance**

MAI and its subcontractors maintain the following insurance coverages:

- Workers' Compensation and Employers' Liability
- Commercial General Liability
- Business Automobile Liability Insurance

## **2.6 Warranty**

MAI agrees to diligently perform Installation Services and will coordinate with the designated contacts to meet the installation start and completion dates. All said Installation Services shall be performed pursuant to TEX-AN 2000 contract and shall conform to all applicable federal, state and local government laws, codes, statutes and ordinance.

## **2.7 Limitation of Liability**

GSC agrees that MAI will make a best effort to resolve problems that may arise out of the execution of an order and MAI's liability for any damages, including but not limited to liability arising out of contract, negligence, strict liability in tort, or warranty shall not exceed the charges paid by GSC for the particular order involved. GSC agrees that MAI will not be liable for any lost profits or lost data or any claim or demand against GSC by any other party.

## **3.0 ADDITIONAL SERVICES**

In addition to product resale, MAI offers technical services in support of these manufacturer product lines to include:

- Network Design
- Router Management
- Integration
- Troubleshooting
- PAM Hosting
- Device Configuration
- Disaster Recovery

MAI also offers optional cabling services for sites requiring cabling installation or redesign.

- Data/Voice Communications Cabling
- Labeling, Testing and Documentation
- Cabling Warranty/Maintenance Support
- Moves and Changes

#### **4.0 INSURANCE**

MAI will bear all risk of loss of the ordered goods while in transit and MAI will assume full responsibility for insuring the ordered goods in transit and submitting and resolving all insurance claims arising from damage to its shipments. The QOE assumes the risk of loss following the delivery date.

#### **5.0 LIMITATION OF LIABILITY**

GSC agrees that MAI will make a best effort to resolve problems that may arise out of the execution of an order and MAI's liability for any damages, including but not limited to liability arising out of contract, negligence, strict liability in tort, or warranty shall not exceed the charges paid by GSC for the particular order involved. GSC agrees that MAI will not be liable for any lost profits or lost data or any claim or demand against GSC by any other party.

#### **6.0 INDEMNIFICATION**

GSC and MAI agree to indemnify and hold the other harmless for any liability caused by the actual or willful negligence of the other.

#### **7.0 ORDERING INFORMATION**

The following toll-free number will be used for EPI service ordering and technical support. This number will be available 24 hours a day, 7 days a week.

**EPI Service Ordering and Support: (888) MAI-3400**

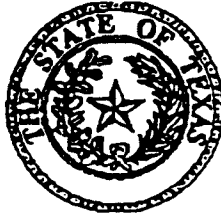
Other contact information is as follows:

|               |   |
|---------------|---|
| Company Name: | Management Applications, Inc.                                   |
| Contact name: | Pat Cook, Account Manager                                       |
| Address:      | 14225 Sullyfield Circle<br>Suite F<br>Chantilly, Virginia 20151 |
| Phone:        | (703) 263-2500 ext. 3011  |
| Fax:          | (703) 263-2566  |

#### **8.0 SPECIAL PAYMENT TERMS**

1. Payment terms of invoices are net 30 days.
2. If payment terms are not met, a late charge of 1.5% of total invoice may be applied per month.

## GFEP-A-1



Bidder Name: Management Applications, Inc.  
 Signature: Jay R. Rushin  
 Contract Number: TEXAN2000-MAI-WH  
 Bid Opening Date: \_\_\_\_\_

### Good Faith Effort Program (GFEP) – Commodities and Other Services Form

In accordance with the State's policy of encouraging the use of HUBs in state procurement, the GSC shall make a good faith effort to utilize HUBs in contracts for commodities and service purchases. Any business that contracts with GSC shall be required to make a good faith effort to award necessary subcontracts to HUBs. The annual HUB participation program goal for all "Other Services" contracts is 33%. The HUB participation program goal for "Commodities" contracts is 12.6%. This Good Faith Effort Program goals do not prevent any business group from participating in contracting opportunities with the State of Texas.

A contractor shall be presumed to have made a good faith effort by submitting the required forms and implementing the following procedures:

1. The contractor shall provide notice as required in DGFE Form (Attachment GFEP-B) with sufficient time to allow all interested parties the opportunity to participate effectively. The contractor shall send such notice to at least five businesses in the current GSC directory of certified HUBs that perform the type of work required in the area in which the work will be performed, (document on GFEP-C).
2. If a non-HUB subcontractor is selected through means other than competitive bidding, or a HUB bid is the lowest price responsive bidder to a competitive bid, but not selected, the contractor will be required to document the selection process on the DGFE Form. While it is a contractor's choice to determine which subcontractors or suppliers best suit its needs, this does not exclude the contractor from meeting the HUB goals if there is a HUB that is willing and able to perform the services called for under the terms and conditions in the contract.
3. The contractor shall maintain business records documenting its compliance and shall make a compliance report to the contracting state agency and report in the format required by the contracting state agency's contract documents, provided that reporting shall be required at least once for each calendar quarter during the term of the contract. (Attachment GFEP-E or GFEP-F).

**Note:** When the contractor is a HUB, it must satisfy the good faith effort requirements by performing at least 25% of the contract with its employees. The HUB prime may subcontract the remaining 75% of the contract with HUB or non-HUB contractors. Any contractor that seeks to satisfy the good faith effort requirement in this manner shall report quarterly to the GSC the volume of work performed under the contract and the portion of the work that was performed with its employees. If a HUB contractor performs less than 25% of the cumulative total contract with its employees, then for the next quarter, the contractor shall report its subcontractors as required by a non-HUB contractor.

Bidder must answer the following questions:

1. If an award is issued, do you plan to utilize a subcontractor for all or any portion of the contract? ☒ Yes ☐ No
2. If answer to question 1 is yes, then:
  - a. What percentage of work will be subcontracted? 85 %
  - b. Have you made a good faith effort to subcontract with a HUB in the context of your offer? ☒ Yes ☐ No
  - c. What percentage of work will be subcontracted with a HUB? 20 %
3. Are you certified as a Texas, Historically Underutilized Business (HUB)? ☐ Yes ☒ No Certification No.: \_\_\_\_\_

**Note:** The bidder will be required to prepare and submit the following Good Faith Effort Program forms: Determination of Good Faith Effort (DGFE) with supporting documentation, HUB-Solicitation Form (SF), HUB-Letter of Intent (LOI) and Progress Assessment Report (PAR) within the designated time period stated on each form. The GSC will ensure that a bidder has complied with the Good Faith Effort Program as a condition of awarding this contract.

**PLEASE RETURN THIS FORM WITH OFFER. ALL OFFERS RECEIVED WITHOUT THIS FORM WILL BE REJECTED.**

Return to: General Services Commission, P.O. Box 13047, Austin, Texas: 78711-3047, Fax: (512) 463-3360



General Services Commission  
Determination of Good Faith Effort  
(DGFE)

Bidder: Management Applications, Inc. Vendor Identification Number: 1-54-177-7754-500  
Address: 14225 Sullyfield Circle, Suite F Chantilly, VA 20151  
Phone: 703-263-2500 Contract Number: TEXAN2000-MAFWH Contact Name: Pat Cook

If subcontracting is utilized, the General Services Commission (GSC) requires the bidder to complete this checklist, (Items 1 - 6), and submit supporting documentation explaining in what ways the bidder made a good faith effort according to each requirement. The questions must be answered and supporting documents submitted. If subcontracting is not utilized, Item 7 must be addressed.

Yes / No

N (1) Did you provide written notices to at least five (5) qualified HUBs or advertise in general circulation, trade association, and/or minority/women focus media concerning subcontracting opportunities. Copy of solicitation or advertisement must be included with the form. Solicitation Form (Attachment GFEP-C) must be submitted with this form.

Explanation: MAI engaged two (2) HUBs for this bid. The scope of work we bid would allow for only 2 subcontractors.

N (2) Did you provide written notice to at least five qualified HUBs allowing sufficient time for HUBs to participate effectively. Submit Solicitation Form (Attachment GFEP-C).

Explanation: Two (2) was all that was reasonable for our scope of work.

Y (3) Did you divide the contract work into the reasonable portions in accordance with standard industry practices.

Explanation: \_\_\_\_\_

Y (4) Did you submit documented reasons for rejection of HUB bids or met with the rejected HUB to discuss the rejection.

Explanation: \_\_\_\_\_

Y (5) Did you provide qualified HUBs with adequate information about bonding, insurance, the plans, the specifications, scope of work and requirements of the contract. Copy of notice or solicitation must be submitted with this checklist.

Explanation: \_\_\_\_\_

Y (6) Did you negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were also the lowest responsive bidder.

Explanation: \_\_\_\_\_

\_\_\_\_ (7) Explain in a separate document why no subcontracting opportunities are available or what efforts were made to subcontract part of this project.

NOTE: If you have not made a Good Faith Effort Program as outlined above or if any of the above items (1-6) are left blank, you must attach supporting documentation or a letter of justification. The attachments submitted by the bidder will be reviewed by the GSC and a written notice of acceptance or deficiency of good faith effort will be issued.

This form is due within 5 working days following notification of selection by GSC, but prior to the award of this contract.

Patricia A. Cook  
Signature of Bidder

Sales Manager  
Title

Sept. 30, 1999  
Date

Return to: General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047, Fax: (512) 463-3360

**GFEP-C**

**HISTORICALLY UNDERUTILIZED BUSINESSES  
SOLICITATION FORM (HUB-SF)**

Bidder: Management Applications, Inc. Vendor Identification Number: 1-54-177-7754-500  
 Address: 14225 Sullyfield Circle, Suite F Chantilly VA 20151  
 Phone: 703-263-2500 Contract Number: TEXAS 2000-MAT-WH Contact Name: Pat Cook

Specific Subcontract Solicited: \_\_\_\_\_

Contractor's Estimate of Approximate Dollar Value of Subcontract Advertised: \_\_\_\_\_

Date of Solicitation Letter \_\_\_\_\_

\* List each HUB to which a written notice of solicitation letter was sent and attach a copy of each written notice of solicitation letter. If additional space is needed, please attach a separate sheet.

1. Name of HUB Subcontractor/Supplier: DTIG - Digital Integration Technologies Group

Address: 3815 Haley's Way Round Rock TX 78664

Phone: 512-255-4585 Owner: Diana Gerada

If GSC certified, enter Vendor Identification Number: 1-74-289-2107-000 If not GSC certified, please complete the following information:

☐ Black American Male Female

☐ Native American Male Female

☐ Woman

☐ Hispanic American Male Female

☐ Asian Pacific Americans Male Female

2. Name of HUB Subcontractor/Supplier: ECOMM Systems, Inc.

Address: P.O. Box 290 Helotes, TX 78029

Phone: 210-695-9122 Owner: Philip Jones

If GSC certified, enter Vendor Identification Number: 1-74-283-3294-700 If not GSC certified, please complete the following information:

☐ Black American Male Female

☐ Native American Male Female

☐ Woman

☐ Hispanic American Male Female

☐ Asian Pacific Americans Male Female

3. Name of HUB Subcontractor/Supplier: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Owner: \_\_\_\_\_

If GSC certified, enter Vendor Identification Number: \_\_\_\_\_ If not GSC certified, please complete the following information:

☐ Black American Male Female

☐ Native American Male Female

☐ Woman

☐ Hispanic American Male Female

☐ Asian Pacific Americans Male Female

4. Name of HUB Subcontractor/Supplier: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Owner: \_\_\_\_\_

If GSC certified, enter Vendor Identification Number: \_\_\_\_\_ If not GSC certified, please complete the following information:

☐ Black American Male Female

☐ Native American Male Female

☐ Woman

☐ Hispanic American Male Female

☐ Asian Pacific Americans Male Female

5. Name of HUB Subcontractor/Supplier: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Owner: \_\_\_\_\_

If GSC certified, enter Vendor Identification Number: \_\_\_\_\_ If not GSC certified, please complete the following information:

☐ Black American Male Female

☐ Native American Male Female

☐ Woman

☐ Hispanic American Male Female

☐ Asian Pacific Americans Male Female

6. Name of HUB Subcontractor/Supplier: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Owner: \_\_\_\_\_

If GSC certified, enter Vendor Identification Number: \_\_\_\_\_ If not GSC certified, please complete the following information:

☐ Black American Male Female

☐ Native American Male Female

☐ Woman

☐ Hispanic American Male Female

☐ Asian Pacific Americans Male Female

Signature: Patricia A. Cook Title: Sales Mgr.

Address: 14225 Sullyfield Circle, Ste. F Chantilly, VA 20151 Phone: (703) 263-2500 x. 3011

This form must be signed by an authorized representative of the Bidder.

This form is due within 5 working days following the notification of selection by GSC but prior to the award of this contract.

Return to: General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047.

Fax: (512) 463-3360





# HISTORICALLY UNDERUTILIZED BUSINESS LETTER OF INTENT (HUB-LOI)

PLEASE SUBMIT SEPARATE FORM FOR EACH HUB SUBCONTRACTOR/SUPPLIER  
For use by bidder to identify HUB Subcontractors and Suppliers

Bidder Management Applications, Inc. Vendor Identification Number: 1-54-177-7754-500

Address: 14225 Swlyfield Circle, Suite F Chantilly, VA 20151

Telephone: 703-263-2500 GSC Contract #: TEXAN 2000-MAI-<sup>WH</sup> Contract Amount: \_\_\_\_\_

Description of services/specifications: MAI provides a wide range of services that are designed to meet QOE web hosting and development needs. These services include web hosting, designing simple to complex websites with advanced features such as dynamic database apps and secure transaction processing  
Time period covered: Date of contract signing for a period of 5 yrs. GSC may extend this contract for five (5) additional one-yr. periods.  
Percentage/amount of contract with HUB subcontractor/supplier \$ \_\_\_\_\_ Percentage \_\_\_\_\_

Name of HUB Subcontractor/Supplier: Digital Technologies Integration Group (DTIG)

Address: 3815 Haley's Way Round Rock, TX 78664

Telephone: 512-255-4585 Proposed Contract Amount: \_\_\_\_\_

Description of materials or services performed under agreement with HUB for amount indicated above:

Services to be performed include comprehensive web hosting and development services using advanced Internet technologies, state-of-the-art programming tools and sound management procedures to deliver excellent web services.

This form is due within 5 working days following notification of selection by GSC but prior to the award of this contract.

Patricia A. Cook  
Signature of Bidder

Sales Mgr.  
Title

Sept. 30, 1999  
Date

Return to: General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047, Fax: (512) 463-3360

**Amendment No.1 to  
Contract No. TEXAN 2000-MAI-EPI  
Between  
State of Texas, acting by and through the Department of Information Resources,  
successor agency to the General Services Commission  
( now the Texas Building and Procurement Commission)  
  
And  
Management Applications, Inc.**

This Amendment No. 1 to Contract No. TEXAN 2000 – MAI - EPI, is by and between the Department of Information Resources (DIR) as successor agency to the General Services Commission (GSC), now the Texas Building and Procurement Commission (TBPC) and Management Applications, Inc., (MAI) and is effective as of the date of the last signature below (1st Amendment Effective Date).

**WITNESSETH:**

WHEREAS the State of Texas, acting by and through GSC and MAI entered into GSC Contract No. TEXAN 2000 – MAI – EPI dated October 4, 1999 (the "Agreement"); and

WHEREAS, by Act of the Texas Legislature effective September 1, 2001, the authority, duties and responsibilities for telecommunications for the State of Texas transferred from GSC /TBPC to DIR, including all vendor contracts; and

WHEREAS, as part of the Agreement, MAI is to provide products, installation and services to qualified ordering entities authorized to participate in DIR's vendor contracts; and

WHEREAS, DIR and MAI now wish to enter into this Amendment No. 1 to amend the products offered, and to modify certain terms and conditions to bring the Agreement into conformance with DIR's other vendor contracts.

NOW THEREFORE, DIR and MAI agree as follows.

1. Attachment A to this Amendment No. 1 is approved as the additional terms and conditions under which Contract No. TEXAN 2000 – MAI – EPI will be administered from and after the 1<sup>st</sup> Amendment Effective Date and is incorporated into TEXAN 2000 – MAI – EPI for all purposes.
2. Attachment B to the 1<sup>st</sup> Amendment is a listing of orders in process prior to the 1<sup>st</sup> Amendment Effective Date, for which administrative fees shall not be due. Attachment B is incorporated into TEXAN 2000 – MAI – EPI for all purposes.
3. The terms and the conditions of the Agreement, as amended, shall apply except as expressly amended in Sections 1 and 2 above of this Amendment No. 1. In

the event of any conflict between the Agreement and this Amendment No. 1, the order of precedence for governance is this Amendment No. 1, and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, the parties hereby execute this Amendment No. 1 to be effective upon the date of the last party to sign.

State of Texas,

Management Applications, Inc.

acting by and through the

Department of Information Resources

By: Patrick W. Hogan

By: Michael Villarreal

Patrick W. Hogan

Name: Michael Villarreal

Director of Business Operations

Title: Project Manager

Date: 1/23/03

Date: 1/26/2004

Legal: 8/12/04

## **ATTACHMENT A TO THIRD AMENDMENT AGREEMENT**

### **To TEXAN 2000 – MAI– EPI**

Additional Terms and conditions to TEXAN 2000 – MAI – EPI, as amended.

**1. Exhibit F of the Contract is amended to delete the following sections:**

- 1.4 Cabletron Systems
- 1.5 FORE Systems

**2. Subparagraph A, Article III of the Contract is amended to read as follows:**

**A. Order Processing and Payments**

All Customer purchase orders will be placed directly with the MAI. Accurate purchase orders shall be effective and binding upon MAI when received via the mail or electronically transmitted prior to the termination of this Contract period.

Invoices shall be submitted by the MAI directly to the Customer and shall be issued by the MAI in compliance with Chapter 2251, Texas Government Code. All payments for products and/or services purchased under this Contract and any provision of acceptance of such products and/or services shall be made to the Reseller by the Customer.

Invoices must be timely and accurate. Each invoice must match the Customer's order and include any written changes that may apply, as it relates to products, prices and quantities. Invoices must include the Customer's Purchase Order number or other pertinent information for verification of receipt of the order by the Customer.

Customer(s) shall comply with Chapter 2251, Texas Government Code, in making payments to MAI. Payment under this contract shall not foreclose the right to recover wrongful payments.

**3. Subparagraph C, Article III is amended and restated to read as follows:**

**C. 1. Pricing**

If MAI offers and makes sales of products and services at a higher rate of discount, based on a quantity of one, from that specified in this Contract, to an eligible DIR Customer, other entity or consortia authorized by Texas law to sell products and services available under this Contract to eligible DIR Customers, then the available discount levels in this Contract shall automatically be adjusted to that higher discount rate.

**2. Customer Discount**

Based on a quantity of one (1), the Customer discount from the MAI for all Products and Services will be a percentage off the MAI's Suggested Retail Price (MSRP), as listed and set forth in Section 1.6.3 Price/Units. Customer may negotiate more advantageous pricing for large volume purchases with MAI.

### **3. DIR Administrative fee**

The DIR administrative fee shall be included in the Customer Discount set forth herein. The administrative fee shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

### **4. Shipping and Handling Fees**

The price to the Customer under this Contract shall include all shipping and handling fees. Shipments will be F.O.B. Customers destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited delivery, Customer will be responsible for any charges for expedited delivery.

### **5. Tax-Exempt**

As per Section 151.309, Texas Tax Code, Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under this Contract are exempt from Federal Excise Taxes, 26 USC Secs. 4253(i) and (j).

### **6. Changes to Prices**

MAI may change the price of any product or service at any time, based upon changes to the MAI's Suggested Retail Price, but discount levels shall remain consistent with the discount levels specified in 1.6.3 Price/units. Price decreases shall take effect automatically during this Contract term and MAI shall pass all price decreases on to the Customer.

## **4. Article III is amended to add subparagraph D to read as follows:**

### **D. Administrative Fee**

#### **1. DIR Administrative fee Reporting and Administrative Fees**

MAI shall be responsible for reporting all products and services purchased through this Contract. The failure to file the monthly reports, subcontract reports, and pay the administrative fees on a timely basis will constitute grounds for suspension or termination of the contract for cause. If MAI submits three (3) consecutive monthly reports incorrectly, DIR reserves the right to suspend or terminate this contract for cause. MAI's liability for any breach of this section is limited to the amount of administrative fees owed to DIR by MAI.

DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this section, including but not limited to, compliance checks of MAI's applicable Contract books.

## **2. Detailed Monthly Report**

MAI shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under this Contract for the previous month period. Reports shall be submitted to the DIR Go DIReCt Coordinator. Reports are due on the fifteenth (15<sup>th</sup>) day after the close of the previous month period. It is the responsibility of MAI to collect and compile all sales under this Contract and submit one (1) monthly report. The monthly report shall include the MAI's sales for the period, each Customer name, order date, ship date, description, part numbers, MAI, quantity, unit price, extended price, Customer purchase order number, contact name, Customer's complete billing address, and other information as required by DIR. Each line item sale must contain all information listed above or the report will be rejected and returned to the MAI for correction.

## **3. Historically Underutilized Business Subcontract Reports**

MAI shall electronically provide each Customer with their relevant Historically Underutilized Business Subcontracting Report, pursuant to this Contract, as required by Chapter 2161, Texas Government Code. Reports shall also be submitted to DIR.

Reports shall be due quarterly in compliance with the following schedule, or as requested by each ordering Customer:

September – November: due by December 5<sup>th</sup>

December – February: due by March 5<sup>th</sup>

March – May: due June 5<sup>th</sup>

June – August: due September 5<sup>th</sup>

## **4. DIR Administrative Fee**

An administrative fee shall be paid by MAI to DIR to defray the DIR costs of negotiating, executing, and administering this Contract. All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to MAI. Any change in the administrative fee shall be incorporated in the price to the Customer.

MAI shall pay DIR, on the fifteenth (15<sup>th</sup>) day after the close of the previous month period, a two percent (2%) administrative fee based on the dollar value of all sales to Customers pursuant to this Contract. Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$2,000.

## **5. Subparagraph A. 2. of Article VII is deleted.**

## **6. Article XIII of the Contract is amended to add paragraphs N. through HH. as follows:**

## **N. Records and Audit.**

The MAI shall maintain adequate records to establish compliance with this Contract until the later of a period of four years after termination of this Contract or until full, final and unappealable resolution of all compliance checks or litigation issues that arise under this Contract. Such records shall include identification of the procuring Customer, documentation of the Customer's ordering date, Customer Purchase Order number, order date of product or service, ship date or service delivery date, full invoice address, unit price, extended price, invoice number, record of procuring Customer payment and/or balance due, the calculations supporting each administrative fee owed DIR under this Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.

MAI shall grant access to all paper and electronic records, books, documents, accounting procedures, practices and any other items relevant to the performance of this Contract to DIR, the auditors designated by DIR, including auditors of the State Auditor's Office and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, auditing and/or copying such books and records. Copies and printouts requested by DIR shall be provided by MAI without charge. DIR shall provide MAI ten (10) business days' notice prior to inspecting, auditing, and/or copying MAI's records. MAI's records, whether paper or electronic, shall be made available during regular office hours. MAI personnel familiar with the MAI's books and records shall be available to DIR staff and designees as needed. MAI shall provide adequate office space to DIR staff during the performance of a compliance check.

If any inspection or compliance check performed hereunder reveals an aggregate overcharge to a Customer of .5% or greater, or an aggregate underpayment to DIR of its administrative fee of .5% or greater, then the cost of such compliance check or inspection, including, but not limited to, the salary and associated overhead of DIR staff performing the compliance check or inspection, shall be reimbursed to DIR within thirty (30) days from receipt of an invoice from DIR reflecting the cost of the compliance check or inspection.

For procuring State Agencies whose payments are processed by the Texas Comptroller of Public Accounts, the volume of payments made to MAI through the Texas Comptroller of Public Accounts and the administrative fee based thereon shall be presumed correct unless MAI can demonstrate to DIR's satisfaction that MAI's calculation of DIR's administrative fee is correct.

MAI understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. MAI further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records

requested. MAI will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through MAI and the requirement to cooperate is included in any subcontract it awards pertaining to this Contract.

**O. Web Site Maintenance.**

Access by Customers to Contract terms and pricing information shall be made available and posted on the Internet. To that end, upon sixty (60) days from execution of the Contract, Manufacturer will be required to host the complete Contract product and service offerings, including pricing, at Manufacturer's Internet site. Internet access to this information will be provided including all subsequent changes to the product and services offerings and pricing during the term of this Contract at no cost to DIR, the State, and Customers.

Contractor agrees to maintain and support an Internet website with Product pricing, configuration assistance, Product descriptions and Product specifications. Pricing on the Internet website shall include the DIR Administrative Fee.

**P. Change In Contractor Representatives.** Contractor shall appoint a primary representative to work with the Contract Administrator to maintain, support and market this Contract. DIR reserves the right to request a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the DIR, serving the needs of the State of Texas and the QOE's adequately.

**Q. Confidentiality.** Contractor acknowledges that DIR is a government agency subject to the Texas Public Information Act. Contractor also acknowledges that DIR will comply with the Public Information Act and with all opinions of the Texas Attorney Generals' office concerning this Act.

Under the terms of this Contract DIR may provide Contractor with information related to DIR QOE's. Contractor shall comply with all DIR Privacy Policy Guidelines, including, but not limited to, the requirement that Contractor shall not re-sell or otherwise distribute or release to any party in any manner DIR or QOE's' information.

**R. Survival.** All warranty and/or service agreements that were entered into between Manufacturer and a Customer under the terms and conditions of this Contract shall survive the termination of this Contract.

**S. Warranty.** Warranty and Service agreements that were entered into between Contractor and a QOE's under the terms and conditions of this Contract shall survive the termination of this Contract.

**T. Notification.** All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Contract shall be in writing and shall be validly given on i) the date of delivery if delivered by email, facsimile transmission, mailed by registered or certified mail, or hand



delivered, or (ii) three business days after being mailed via United States Postal Service. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Contract by giving fifteen (15) days written notice to the other party.

If sent to the State:

Patrick W. Hogan  
Department of Information Resources  
St., Suite 1300  
Austin, Texas 78701  
Phone: (512) 475-4700  
Fax: (512) 475-4759  
(Email: [patrick.hogan@dir.state.tx.us](mailto:patrick.hogan@dir.state.tx.us))

If sent to the Manufacturer:

Michael Villarreal  
Management Applications, Inc. 300 W. 15<sup>th</sup>  
14030 Thunderbolt Place, Suite 500  
Chantilly, VA 20151  
Phone: - 512-413-4609  
Fax: 240-526-5953  
Email: [mvillarreal@managementapps.com](mailto:mvillarreal@managementapps.com)

**U. Contractor Certifications.** MAI certifies (i) it has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; (ii) it is not currently delinquent in the payment of any franchise tax owed the State of Texas and is not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledges this Contract may be terminated and payment withheld if this certification is inaccurate; (iii) neither it, nor anyone acting for it, has violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage; (iv) it has not received payment from DIR or any of its employees for participating in the preparation of this Contract; (v) it is not ineligible to receive this Contract under § 2155.004, Texas Government Code; (vi) it is in compliance with §618.003, Texas Government Code; (vii) it will comply with §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of this Contract; and (viii) to the best of the MAI's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting the MAI, which if determined adversely to the MAI will have a material adverse effect on the ability of the MAI to fulfill its obligations under this Contract.

**V. DIR Logo.** MAI and its Resellers may use the DIR logo in the promotion of this Contract to Customers with the following stipulations; (i) the logo may not be modified in any way; (ii) when displayed, the size of the DIR logo must be equal to or smaller than the MAI or Reseller logo; (iii) the DIR logo is only used to communicate the availability of products and services under this Contract to Customers; and (iv) any other use of the DIR logo requires prior written permission from DIR.

**W. Technology Access, as required by § 2157.005, Texas Government Code. TECHNOLOGY ACCESS CLAUSE, AS REQUIRED BY §2157.005.**

**TEXAS GOVERNMENT CODE. (Applicable to State Agency Purchases Only)** MAI expressly acknowledges and agrees that State funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, the MAI represents and warrants to DIR and each Customer purchasing products under this Contract that the technology provided hereunder is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology of: (i) providing equivalent access for effective use by both visual and non-visual means; (ii) presenting information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; and (iii) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For the purposes of this section, the phrase "equivalent access means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services that would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples, of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical display and customizable display appearance.

**X. Commodity Software.** Texas Government Code, §2157.068 requires State agencies to buy commodity software in accordance with contracts developed by DIR, unless the agency obtains a waiver from DIR. MAI shall agree to coordinate all agency commodity software sales made pursuant to this Contract through existing DIR contracts, if available. MAI represents it will not license through a signed or unsigned license agreement, volume licensing agreement or an order confirmation, the commodity software to state agencies unless the agency is able to provide a DIR granted waiver that the agency is able to purchase the commodity software outside the DIR Commodity Software contracts. The operating system software and institutions of higher education are not bound to this Code.

**Y. Dispute Resolution.** The dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used to attempt to resolve any claim for breach of contract made by the Contractor that is not resolved in the ordinary course of business.

**Z. Preference to Texas Products.** Vendor agrees to comply with Sections 2155.444 and 2155.4441, Texas Government Code.

**AA. Training.** The Contractor may be required to provide product overview training to DIR at no cost. The training will be held within the Austin area at times acceptable to DIR.

**BB. Ability to Conduct Business in Texas.** MAI is an entity authorized and validly existing under the laws of its state of organization, and is authorized to do business in the State of Texas. The MAI is a "Catalog Information Systems Vendor" as defined in §2157.001, Texas Government Code. All products and services offered to Customers under this Contract are listed in MAI's catalog on file with the Texas Building and Procurement Commission.

**CC. Vendor is CISV.** Contractor is a "Catalog Information Systems Contractor" as defined in § 2157.001, Texas Government Code. All Information Resources Technologies offered to QOE's under this Contract are listed in Contractor's catalogue on file with the TBPC.

**DD. Suit Or Pending Proceedings.** To the best of the Contractor's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting the Contractor, which if determined adversely to the Contractor will have a material adverse effect on the ability of the Contractor to fulfill its obligations under the Contract.

**EE. Trade Shows.** MAI understands and agrees that it must participate by providing a staffed booth display or similar presence at no less than two (2) trade shows or similar functions sponsored by DIR Business Operations Division each calendar year at the MAI's expense. MAI must display the DIR logo at all trade shows that potential Customers will attend. DIR reserves the right to approve or disapprove of the location of the use of the DIR logo in or on the MAI's booth.

**FF. Shipment and Risk of Loss.** The QOE may request expedited shipping for an additional charge.

**GG. Impracticability of Performance.** A QOE may terminate a Purchase Order for convenience under Article IX B., if it is determined by the QOE that Vendor will not be able to deliver product or services in a timely manner to meet the business needs of the QOE.

**HH. Handling of Written Complaints.** In addition to other remedies contained in this Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office  
Department of Information Resources  
Attn: Public Information Officer  
300 W. 15<sup>th</sup> Street, Suite 1300  
Austin, TX 78701  
(512) 475-4700, voice  
(512) 475-4759, fax

**End of Attachment A**

January 28, 2004

**ATTACHMENT B TO THIRD AMENDMENT AGREEMENT****To TEXAN 2000-MAI-EPI****Current Orders**

The following are orders which are currently active or are being billed at this time.

| <b>SOW</b>        | <b>Date</b> | <b>Customer</b> | <b>Description</b>  | <b>Amount</b> |
|-------------------|-------------|-----------------|---|---------------|
| Quote TX2000-581c | 3/27/2003   | TXDOT           | Visual Network Equipment Option 1                                 | \$751,919.00  |
| Quote TX2000-582c | 3/27/2003   | TXDOT           | Visual Network Equipment Option 2                                 | \$506,246.50  |
| Quote TX2000-583c | 3/27/2003   | TXDOT           | Visual Network Equipment Option 3                                 | \$800,330.00  |
| TX2000-074        | 8/6/2003    | CSEC            | Firewall Installation   | \$4,147.50    |
| TX2000-079        | 6/25/2003   | NCTCOG          | Red Oak PD PSAP Install 20.76 Dallas                              | \$ 730.00     |
| TX2000-080        | 6/25/2003   | SETRPC          | Silsbee PD PSAP Move 21.93 Beaumont                               | \$ 730.00     |
| TX2000-081        | 7/24/2003   | CAPCO           | Cedar Park PD PSAP Move 20.4 Austin                               | \$ 1,030.00   |
| TX2000-082-001    | 8/25/2003   | AACOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 1,344.00   |
| TX2000-082-002    | 9/2/2003    | ATCOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,304.00   |
| TX2000-082-003    | 8/25/2003   | BVCOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 1,344.00   |
| TX2000-082-004    | 10/1/2003   | CAPCO           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 7,120.00   |
| TX2000-082-005    | 9/2/2003    | CTCOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,112.00   |
| TX2000-082-006    | 8/25/2003   | CBCOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 3,648.00   |
| TX2000-082-007    | 8/25/2003   | CVCOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,688.00   |
| TX2000-082-008    | 8/25/2003   | DETCOG          | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 3,072.00   |
| TX2000-082-009    | 8/25/2003   | ETCOG           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 3,264.00   |
| TX2000-082-010    | 8/25/2003   | GCRPC           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 1,536.00   |
| TX2000-082-011    | 8/25/2003   | HOTCOG          | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 1,344.00   |
| TX2000-082-012    | 8/25/2003   | HGAC            | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 4,416.00   |
| TX2000-082-013    | 8/25/2003   | LRGVDC          | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 3,648.00   |
| TX2000-082-014    | 8/25/2003   | MRGDC           | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,112.00   |
| TX2000-082-015    | 8/25/2003   | NRPC            | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 1,728.00   |
| TX2000-082-016    | 8/25/2003   | NCTCOG          | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 8,064.00   |

|                |           |        |   |             |
|----------------|-----------|--------|---|-------------|
| TX2000-082-017 | 8/25/2003 | PRPC   | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 4,608.00 |
| TX2000-082-018 | 8/25/2003 | PBRPC  | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,112.00 |
| TX2000-082-019 | 8/25/2003 | RGCOG  | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 768.00   |
| TX2000-082-020 | 8/25/2003 | SETRPC | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,304.00 |
| TX2000-082-021 | 8/25/2003 | SPAG   | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 2,304.00 |
| TX2000-082-022 | 8/25/2003 | STDC   | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 1,536.00 |
| TX2000-082-023 | 8/25/2003 | TCOG   | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 960.00   |
| TX2000-082-024 | 8/25/2003 | WCTCOG | Router Maintenance of Routers on the AT&T ALI Network for FY 2004 | \$ 3,264.00 |
| TX2000-083-001 | 10/9/2003 | AACOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,120.00 |
| TX2000-083-002 | 10/9/2003 | ATCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,920.00 |
| TX2000-083-003 | 10/9/2003 | BVCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,120.00 |
| TX2000-083-004 | 10/1/2003 | CAPCO  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 4,960.00 |
| TX2000-083-005 | 10/9/2003 | CTCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,760.00 |
| TX2000-083-006 | 10/9/2003 | CBCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 3,040.00 |
| TX2000-083-007 | 10/9/2003 | CVCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 2,240.00 |
| TX2000-083-008 | 10/9/2003 | DETCOG | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 2,560.00 |
| TX2000-083-009 | 10/9/2003 | ETCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 2,720.00 |
| TX2000-083-010 | 10/9/2003 | GCRPC  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,280.00 |
| TX2000-083-011 | 10/9/2003 | HOTCOG | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,120.00 |
| TX2000-083-012 | 10/9/2003 | HGAC   | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 3,680.00 |
| TX2000-083-013 | 10/9/2003 | LRGVDC | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 3,040.00 |
| TX2000-083-014 | 10/9/2003 | MRGDC  | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,760.00 |
| TX2000-083-015 | 10/9/2003 | NRPC   | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 1,440.00 |
| TX2000-083-016 | 10/9/2003 | NCTCOG | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 6,720.00 |
| TX2000-083-017 | 10/9/2003 | PRPC   | Router Maintenance of Routers on the SBC ALI Network for FY 2004  | \$ 3,840.00 |

|                |            |        |  |    |                |
|----------------|------------|--------|--|----|----------------|
| TX2000-083-018 | 10/9/2003  | PBRPC  | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 1,760.00       |
| TX2000-083-019 | 10/9/2003  | RGCOG  | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 640.00         |
| TX2000-083-020 | 10/9/2003  | SETRPC | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 1,920.00       |
| TX2000-083-021 | 10/9/2003  | SPAG   | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 1,920.00       |
| TX2000-083-022 | 10/9/2003  | STDC   | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 1,280.00       |
| TX2000-083-023 | 10/9/2003  | TCOG   | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 800.00         |
| TX2000-083-024 | 10/9/2003  | WCTCOG | Router Maintenance of Routers on the SBC ALI Network for FY 2004 | \$ | 2,720.00       |
| TX2000-084     | 9/8/2003   | CAPCO  | CTECC Backup Router Install 0.00 Austin                          | \$ | 730.00         |
| TX2000-085     | 9/25/2003  | NCTCOG | Erath Co PSAP Move 88.20 Waco                                    | \$ | 1,210.00       |
| TX2000-086     | 10/22/2003 | LRGVDC | Pharr PD PSAP Move 2.9 McAllen                                   | \$ | 730.00         |
| TX2000-087     | 10/8/2003  | CAPCO  | North Substation PSAP Move 0.00 Austin                           | \$ | 730.00         |
| TX2000-088     | 10/8/2003  | HOTCOG | Hillsboro PD PSAP Move 34.15 Waco                                | \$ | 730.00         |
| TX2000-089     | 12/5/2003  | CSEC   | Network Support 0.00 Austin                                      | \$ | 750.00         |
| <i>Total</i>   |            |        |  |    | \$2,192,973.00 |

**End of Attachment B**